

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

OLUFEMI ABIODUN OGUNYEMI,)	
)	
Petitioner,)	
)	
v.)	1:12CV839
)	1:05CR127-1
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

BEATY, District Judge.

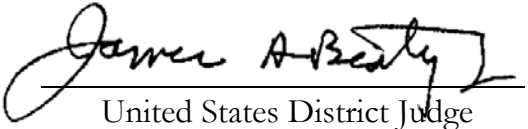
On May 21, 2014, the Recommendation of United States Magistrate Judge [Doc. #98] was filed and notice was served on the parties pursuant to 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommended that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. #76] be granted, that Petitioner's Judgment [Doc. #15] be vacated, that Count Three of the Indictment [Doc. #1] be dismissed, that Petitioner be resentenced as to Count Seven of the Indictment, and that any money paid by Petitioner toward the \$100.00 special assessment for Count Three be returned to him under the procedure set out in the Magistrate Judge's Recommendation. No objections were filed within the time limits prescribed by § 636.

In the absence of objections, this Court reviews the Recommendation only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Fed. R. Civ. P. 72 advisory committee's note. The Court has appropriately reviewed the Recommendation. Having done so, the Court finds that no clear error exists and the Recommendation should be adopted. The Magistrate Judge's Recommendation [Doc. #76] is

therefore affirmed and adopted for the reasons set forth therein.

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. #76] is hereby GRANTED. IT IS FURTHER ORDERED that Petitioner's Judgment [Doc. #15] is VACATED, that Count Three of the Indictment [Doc. #1] is DISMISSED, that Petitioner is to be resentenced as to Count Seven of the Indictment, and that any money paid by Petitioner toward the \$100.00 special assessment for Count Three is to be returned to him under the procedure set out in the Magistrate Judge's Recommendation.

This, the 23rd day of July, 2014.


United States District Judge